

REMARKS

The present amendment is in response to the Office action dated February 21, 2007, where the Examiner has finally rejected claims 1-24. In the present amendment, claims 1, 8, and 13 have been amended. Accordingly, claims 1-24 remain pending in the present application with claims 1, 8, 13, and 24 being the independent claims. Reconsideration and allowance of pending claims 1-24 in view of the amendments and the following remarks are respectfully requested.

A. Summary of Interview

Applicant thanks the Examiner for the courteous interview conducted with Applicant and Applicant's attorney on April 19, 2007. During the interview Applicant suggested clarifying the claim language to identify the type of previous request Applicant was intending to claim in the November 16, 2006 response. As discussed during the interview, that type of previous request is a request for an end of session indicator. The examiner agreed that the proposed amendment defined around the prior art but expressed that a subsequent search may be needed. Applicant advised that it would review the pending claim set to determine if the proposed limitation was already present in the claims and therefore had already been searched.

B. Previously Searched Subject Matter

Pursuant to the discussion during the interview Applicant reviewed the pending claim set and determined that the subject matter of the proposed amendment, for example as embodied in the amendment to claim 8:

without a prior request from the mobile subscriber unit for an end of session indicator is already specified in the claimed subject matter. Accordingly, this limitation is previously searched subject matter and no supplemental search is required. This limitation is set forth in independent claim 20, which is directed toward an alternative analog to digital handoff embodiment.

C. Criss Does Not Teach the Claimed Invention

The rejection of claim 20 (which includes the subject matter amended into independent claims 1, 8, and 13) cites Criss at paragraphs 85 – 87 (and ¶116 which is the same as ¶87) as disclosing that the determining step occurs without a prior request for the end of session indicator from the mobile subscriber unit. Criss does not teach this limitation.

By way of clarification, Criss discloses that the mobile unit initiates a file transfer request by sending a File Request Packet to an FTP server. The mobile unit then determines if it received the files within a predetermined amount of time. If it received the files, then it stores the files. If it did not receive the files then it retransmits the same file request. The ¶87 and ¶116 aspect of Criss merely discloses that the mobile unit is configured to retransmit the same file request only a limited number of times and if the FTP server does not deliver the files after five (5) tries, then the mobile unit terminates the routine that is running on the mobile terminal.

This disclosure is very different than the amended independent claims. For example, claim 8 requires that an over the air session is established by an over the air call that is initiated by the network. Criss has the mobile unit initiating the call. Claim 8 also requires that there be an expected end of session indicator that is sent by the

network. Criss does not teach that an end of session indicator is sent by the FTP server. The process in Criss is exclusively carried out on the mobile unit and operates to prevent the mobile unit from becoming hung up due to a system failure (see, ¶¶87 and ¶116).

Accordingly, because the subject matter amended into independent claims 1, 8, and 13 is already part of the searched subject matter and because Criss does not teach the independent claims as amended, Applicant asserts that the claims are presently in condition for allowance and a notice of allowance for amended independent claims 1, 8, and 13 and their respective dependent claims is respectfully requested.

With respect to independent claim 20 and its respective dependent claims, Applicant believes that these claims are also in condition for allowance for similar reasons to those discussed above with respect to claims 1, 8 and 13 and respectfully requests a notice of allowance for these claims as well.

D. Conclusion

For all the foregoing reasons, withdrawal of the finality of the rejection and allowance of claims 1-24 pending in the present application are respectfully requested. If necessary, applicant requests, under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above-identified application and to charge the fees for a large entity under 37 CFR 1.17(a). The Director is authorized to charge any additional fee(s) or any underpayment of fee(s) or credit any overpayment(s) to Deposit Account No. 50-3001 of Kyocera Wireless Corp.

Respectfully Submitted,

Dated: April 20, 2007

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